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STATUTORY INSTRUMENTS

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**1995 No. 2994**

**The Road Traffic (Northern Ireland) Order 1995**

**Part III**

**Construction and Use of Vehicles and Equipment**

*Prohibition of unfit vehicles*

**Power to prohibit driving of unfit vehicles**

77.—(1) If on any inspection of a vehicle under Article 55, 61, 65, 75, 76 or 85 of this Order or under Article 31D of the Order of 1981 it appears to a vehicle examiner that owing to any defects in the vehicle or the condition of any load carried by that vehicle, it is, or is likely to become, unfit for service, he may prohibit the driving of the vehicle on a road or other public place—

- (a) absolutely, or
- (b) for one or more specified purposes, or
- (c) except for one or more specified purposes.

(2) If on any inspection of a vehicle under any of the enactments mentioned in paragraph (1) it appears to an authorised constable that owing to any defects in the vehicle driving it (or driving it for any particular purpose or purposes or for any except one or more particular purposes) would involve a danger of injury to any person, he may prohibit the driving of the vehicle on a road—

- (a) absolutely, or
- (b) for one or more specified purposes, or
- (c) except for one or more specified purposes.

(3) A prohibition under this Article shall come into force as soon as the notice under paragraph (6) has been given if—

- (a) it is imposed by an authorised constable, or
- (b) in the opinion of the vehicle examiner imposing it the defects in the vehicle in question are such that driving it, or driving it for any purpose within the prohibition, would involve a danger of injury to any person.

(4) Except where paragraph (3) applies, a prohibition under this Article shall (unless previously removed under Article 81) come into force at such time not later than 10 days from the date of the inspection as seems appropriate to the vehicle examiner imposing the prohibition, having regard to all the circumstances.

(5) A prohibition under this Article shall continue in force until it is removed under Article 81.

(6) A person imposing a prohibition under this Article shall forthwith give notice in writing of the prohibition to the person in charge of the vehicle at the time of the inspection—

- (a) specifying the defects which occasioned the prohibition;

- (b) stating whether the prohibition is on all driving of the vehicle or driving it for one or more specified purposes or driving it except for one or more specified purposes (and, where applicable, specifying the purpose or purposes in question); and
- (c) stating whether the prohibition is to come into force immediately or at the end of a specified period.

(7) Where a notice has been given under paragraph (6), any vehicle examiner or authorised constable may grant an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purpose as may be specified in the exemption.

(8) Where such a notice has been given, any vehicle examiner or authorised constable may by endorsement on the notice vary its terms and, in particular, alter the time at which the prohibition is to come into force or suspend it if it has come into force.

(9) In this Article “authorised constable” means a constable authorised to act for the purposes of this Article by or on behalf of the Chief Constable.

#### **Prohibitions conditional on inspection etc.**

**78.**—(1) Where it appears to the person imposing a prohibition under Article 77 that the vehicle is adapted to carry more than 8 passengers, or is a public service vehicle not so adapted, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at a vehicle testing centre.

(2) Where it appears to that person that the vehicle is of a class to which regulations under Article 65 apply, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at a vehicle testing centre.

(3) Where it appears to that person that the vehicle is one to which Article 63 applies, or would apply if the vehicle had been registered under the Vehicle Excise and Registration Act 1994<sup>(1)</sup> more than 5 years earlier, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected, and a test certificate issued, under Article 61.

(4) In any other case, the prohibition may be imposed with a direction making it irremovable unless and until the vehicle has been inspected in accordance with regulations under Article 81 by a vehicle examiner or authorised constable (within the meaning of Article 77).

#### **Power to prohibit driving of overloaded vehicles**

**79.**—(1) Paragraphs (2) and (3) apply where a goods vehicle or a motor vehicle adapted to carry more than 8 passengers has been weighed in pursuance of a requirement imposed under Article 86 and it appears to—

- (a) a vehicle examiner, or
- (b) a constable authorised to act for the purposes of this paragraph by or on behalf of the Chief Constable,

that the limit imposed by construction and use requirements with respect to any description of weight which is applicable to that vehicle has been exceeded or would be exceeded if it were used on a road or other public place or that by reason of excessive overall weight or excessive axle weight on any axle driving the vehicle would involve a danger of injury to any person.

(2) The person to whom it so appears may, whether or not a notice is given under Article 77(6), give notice in writing to the person in charge of the vehicle prohibiting the driving of the vehicle on a road or other public place until—

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- (a) that weight is reduced to that limit or, as the case may be, so that it is no longer excessive, and
  - (b) official notification has been given to whoever is for the time being in charge of the vehicle that it is permitted to proceed.
- (3) The person to whom it so appears may also by direction in writing require the person in charge of the vehicle to remove it (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle or trailer in accordance with that direction.
- (4) Official notification for the purposes of paragraph (2)—
- (a) must be in writing and be given by a vehicle examiner or a constable authorised as mentioned in paragraph (1), and
  - (b) may be withheld until the vehicle has been weighed or reweighed in order to satisfy the person giving the notification that the weight has been sufficiently reduced.
- (5) Nothing in this Article shall be construed as limiting the power of the Department to make regulations under Article 80(2).

#### **Unfit and overloaded vehicles: offences**

- 80.**—(1) A person who—
- (a) drives a vehicle in contravention of a prohibition under Article 77 or 79, or
  - (b) causes or permits a vehicle to be driven in contravention of such a prohibition, or
  - (c) fails to comply within a reasonable time with a direction under Article 79(3),
- is guilty of an offence.
- (2) The Department may by regulations provide for exceptions from paragraph (1).

#### **Removal of prohibitions**

- 81.**—(1) Subject to the following provisions of this Article, a prohibition under Article 77 or 79 may be removed by any vehicle examiner or authorised constable if he is satisfied that the vehicle is fit for service.
- (2) If the prohibition has been imposed with a direction under Article 78(1) or (2), the prohibition shall not be removed unless and until the vehicle has been inspected in accordance with the direction.
- (3) If the prohibition has been imposed with a direction under Article 78(3), paragraph (1) shall not apply; but the prohibition shall be removed, by such person as may be prescribed, if (and only if) any prescribed requirements relating to the inspection of the vehicle and the issue and production of a test certificate have been complied with.
- (4) If the prohibition has been imposed with a direction under Article 78(4), the prohibition shall not be removed unless and until any prescribed requirements relating to the inspection of the vehicle have been complied with.
- (5) A person aggrieved by the refusal of a vehicle examiner or authorised constable to remove a prohibition may, within the prescribed time and in the prescribed manner, appeal to the Department.
- (6) The Department may make such order on the appeal as it thinks fit.
- (7) Where a vehicle examiner or authorised constable removes a prohibition, he must forthwith give notice of the removal to the owner of the vehicle.
- (8) The Department may require the payment of fees, in accordance with prescribed scales and rates, for the inspection of a vehicle with a view to the removal of a prohibition; and—
- (a) payment of fees may be required to be made in advance, and

(b) the Department must ensure that all the scales and rates prescribed for the purposes of this sub-paragraph are reasonably comparable with—

(i) in the case of goods vehicles, the fees charged by virtue of Article 67(1)(h) in respect of periodic examination, and

(ii) in the case of other vehicles, the fees charged by virtue of Article 62(c).

(9) The Department may make regulations for prescribing anything which may be prescribed under this Article and for regulating the procedure, and fees payable, on appeals to it under paragraph (5).

(10) In this Article “authorised constable” means a constable authorised to act for the purposes of this Article by or on behalf of the Chief Constable.

(11) Article 110(1) does not apply to an order made under paragraph (6).